

For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. 86 Ill. Adm. Code 270.115(g)(1). (This is a GIL).

February 19, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated December 17, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Our office represents the VILLAGE. At a conference which the Village Treasurer attended last year, a question arose as to which unit of local government is entitled to its share of the sales tax collected from the sale of sand and gravel. Our Treasurer was led to believe that the unit of local government entitled to receive revenue from the sale of sand and gravel is the unit of local government where the sand and gravel mined.

We are not sure, however, we believe our Treasurer spoke directly with you regarding this issue. We have enclosed a copy of a document that PERSON provided to us from the Illinois Administrative Code.

It is our understanding that sales tax revenue collected by a unit of local government for the sale of sand and gravel occurs as the result of the transaction (i.e., the sale) could be placed within the municipal boundaries of that unit of local government.

Reference has been made to Section 270.15(d)(1) which states that for the purpose of determining the local government 'whose tax is applicable' a retail sale by a producer of coal or other mineral mine in Illinois is a sale at retail at the place where the coal or other mineral mine in Illinois is extracted from the earth.

VILLAGE does not impose its own tax at retail sale upon sand and gravel (assuming that sand and gravel is considered a mineral).

I would appreciate it if you would respond to this letter, at your leisure, in writing as to the rules governing the allocation of sales tax revenue involving the mining, and subsequent sale, of sand and

gravel. Please feel free to contact me directly if you have any questions. I appreciate your time and consideration in this matter.

Sand and gravel are considered tangible personal property. Sales of sand and gravel are subject to Retailers' Occupation Tax and in addition, local taxes may apply. When determining what locality's local taxes are to be collected when sand and gravel are sold, the Department's regulation, 86 Ill. Adm. Code 270.115, Jurisdictional Questions, is helpful. Subsection (g) of this regulation specifically applies to sales of coal or other minerals. Subsection (g)(2) defines "mineral" to include "not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth."

86 Ill Adm. Code 270.115(g)(1) states as follows:

"For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth."

The regulation defines retail sale as a sale to a user, such as a railroad, public utility or other industrial company for use. Please note that a taxable sale is the final sale to the user. Therefore, a sale by a mineral producer to a wholesaler or retailer for resale is not a retail sale and no tax is due. The retailer collects local taxes, in this situation, when he resells the mineral and the taxes are based upon where the retailer of the mineral is located.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.